

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE,

Plaintiff,

v.

JAN LEWAN a/k/a
JAN LEWANSKI a/k/a
JAN LEWANDOWSKI d/b/a
J.R.D. PRODUCTIONS, INC.,
JAN LEWAN SHOW GIFTS INC.

Defendant.

Cr. ID No. 0303003197

Submitted: August 23, 2006
Decided: September 15, 2006

ORDER

This 15th day of September, 2006, upon consideration of the State's motion to reargue this court's decision of August 16, 2006, it appears:

1. The decision of August 16, 2006, determined that the Court lacked jurisdiction to attach the bank account of PAT Tours in Massachusetts, as proceeds of Racketeering.
2. PAT Tours is a corporation with which the defendant Lewandowski did business. There has not been an action commenced directly against PAT Tours, nor has there been a determination that PAT Tours engaged in any unlawful behavior. The State's prosecution of Lewandowski ended in a plea on December 8, 2003. The Court is unaware of any proceedings to establish PAT Tours' legal liability other than this attempt to attach proceeds believed to have come from Lewandowski.
3. A motion for reargument requires the Court to consider whether it overlooked a precedent or legal principle that would have controlling effect, or whether it has misapprehended the law or the facts such as to effect the ruling.¹
4. The State argues that the Court went beyond the argument presented by the parties in reaching its decision. While it is true that I ruled on the basis of a different analysis, the issue before the court was whether it had jurisdiction to order the forfeiture of the funds which had been seized. That is the issue I decided.

¹ *Monsanto Company v. Aetna*, 1994 WL 46726, at *2 (Del. Super.).

5. The State has not offered any authority or any facts which persuade me that I have overlooked any law or fact which would affect the outcome of this case. It misapprehends the Full Faith and Credit clause which requires this Court to give respect to the final judgments of another jurisdiction.² There is no final judgment respecting the interests of PAT Tours.

5. As to the situs of the funds seized, the State argues that the Bank of America is a national bank and thus its accounts can be seized anywhere. No authority for this proposition is offered, and I find no basis for changing my conclusion that the situs of the account in question was in Massachusetts.

6. The State seeks a stay regarding the order to return the funds to PAT Tours. I will stay that portion of the August 16, 2006, order pending resolution of an appeal to the Delaware Supreme Court.

WHEREFORE, the State's Motion for Reargument is DENIED.

IT IS SO ORDERED.

Judge Susan C. Del Pesco

Original to Prothonotary

xc: Catherine C. Damavandi, Esquire
Charles M. Oberly, III, Esquire
John S. Malik, Esquire

² *In re RJR Nabisco, Inc. Shareholders Litigation*, 576 A.2d 654, 662 n.16 (Del. Ch. 1990)